Addendum

Attachment 1

METHOD OF FABRICATING BRAGG GRATINGS USING A SILICA GLASS PHASE GRATING MASK AND MASK USED BY SAME

Attachment 2

The original patent failed to recite the relationship of the original patent with the parent applications of U.S. Patent Nos. 5,216,739 and 5,104,209 and failed to claim benefit thereof under 35 U.S.C. 120; and claim 15 of the original patent did not have proper antecedent basis for "the striations" so that claim 15 has been amended to depend from claim 10 rather than claim 8.

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below:

(Application Serial No.)	Filing Date	Status
656,462	February 19, 1991	patented (5,104,209)
811,299	December 20, 1991	patented (5,216,739)

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 189

Filed by: Jameson Lee
Administrative Patent Judge
Box Interference
Washington, D.C. 20231
Tel: 703-308-9797
Fax: 703-305-0942

888.104331

UNITED STATES PATENT AND TRADEMARK OFFICE

mk/wisl
8/

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
(Judge Jameson Lee)

DANA Z. ANDERSON, TURAN ERDOGAN, and VICTOR MIZRAHI

Junior Party,
(Patent No. 5,327,515),

v.

KENNETH O. HILL, BERNARD Y. MALO, FRANCOIS C. BILODEAU, and DERWYN C. JOHNSON

Junior Party
(Patent No. 5,367,588)

v.

ELIAS SNITZER, and JOHN D. PROHASKA
(Application 08/310,426)

Patent Interference No. 104,331

ORDER

Party Hill has filed a paper (Paper 188) entitled "Memorandum Regarding Telephone Conference," summarizing the

discussions in a telephone conference on December 17, 1999, between the administrative patent judge and counsel for respective parties.

In light of party Hill's representation that the amendment to cancel new claims 30-40 and 42 in reissue application 09/342,707 is for the purpose of avoiding dismissal of its preliminary motions 4 and 8 in this interference, the amendment should not constitute a bar to party Hill's re-introducing these claims into the reissue application subsequent to termination of this interference. However, if party Hill is not the prevailing party in this interference, then re-introducing these same claims or introducing any other claim into the reissue application will be subject to the examiner's own evaluation as to whether the claims define an invention separately patentable over the lost count. If they do not, then the claims will not be patentable to party Hill. See, In re Deckler, 977 F.2d 1449, 24 USPQ2d 1448 (Fed. Cir. 1992) (party losing interference is not entitled to claims to the same patentable invention as the count).

It is **ORDERED** that party Hill shall, upon termination of this interference, if it is the non-prevailing party as to the subject matter of any count, file a paper in its reissue application 09/342,707, directing the examiner's attention to

this communication and also furnishing a copy of this paper to the examiner.

Jameson Lee

JAMESON LEE
Administrative Patent Judge

Date: 12/29/99
Arlington, VA

Noted
Emk
10/30/02

Interference No. 104,331
Anderson v. Hill v. Snitzer

By First Class Mail

Counsel for party Anderson

Martin I. Finston
Lucent Technologies Inc.
600 Mountain Avenue - Room 3C-512
Murray Hill, New Jersey 07974-0636

Counsel for party Hill

Melvin Kraus
Antonelli, Terry, Stout & Kraus, LLP
1300 North Seventeenth Street,
Suite 1800
Arlington, Va 22209

Counsel for party Snitzer

Arthur Plevy
Buchanan Ingersoll, P.C.
College Centre
Princeton, New Jersey 08540